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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.2518 OF 1991

Punjab & Sind Bank Plaintiffs
versus
Amita Rani Chopra and others Defendants

WITH
SUIT NO.2525 OF 1991

Punjab & Sind Bank Plaintiffs
versus
Jayika Engg. Works & others Defendants

Mr.R.M.Jayakar for plaintiffs.

Ms.P.L.Bachani i/by I.R.Joshi & Co. for defendant no.2.

CORAM : DR.D.Y.CHANDRACHUD, J.

DATE : 09TH JULY 2007

PC :

1. The suit under Order XXXVII of the Code of Civil Procedure has been filed for the recovery of monies lent and advanced. It has been stated before this Court that on 8th August 1996 a learned Single Judge of this Court passed a conditional order granting leave to the defendants to defend the summary suit upon a deposit of the entire claim in the suit within a

period of eighteen weeks. The learned counsel appearing on behalf of the plaintiff has stated that the order of the learned Single Judge was carried in appeal. The appeal was, however, dismissed in default on 3rd August 2005.

2. The net result, therefore, is that the order of the learned Single Judge granting leave to defend subject to the condition of deposit continues to hold the field. The defendants have failed to comply with the conditions subject to which leave to defend was granted. In the circumstances, in view of provisions of Sub Rule 3(6)(b) of Order XXXVII of CPC, the plaintiff shall be entitled to judgment.

3. The learned counsel appearing on behalf of the defendants states that papers were taken away by the defendants quite some time back but, even as recently as this morning, the defendants have been informed of the listing of the matters on board before this Court.

4. The claim of the plaintiff falls within the purview of Order XXXVII of CPC since it is based on a written contract. The defendants have failed to comply with the conditions subject to

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which leave to defend was granted. The suit shall accordingly stand decreed as prayed in terms of prayer clauses (a) and (b) subject to the modification that the plaintiffs will be entitled to interest @ 12% p.a. on the principal sum from the date of suit until payment or realisation.

(DR.D.Y.CHANDRACHUD, J.)